

## UNITED STATES DISTRICT COURT

FEB 26 2016

for the

Southern District of Texas

David J. Bradley, Clerk of Court

United States of America )

v. )

Bernardo Macias Esparza )

Case No.

H16-276 M

Defendant(s)



## CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of 10/19/2015 in the county of Harris in the  
Southern District of Texas, the defendant(s) violated:

## Code Section

## Offense Description

18 USC 1542

Whoever willfully and knowingly makes any false statement in an application for passport with intent to induce or secure the issuance of a passport

18 USC 911

Falsely and willfully represents himself to be a citizen of the US

18 USC 1028(A)

Whoever, during . . . any felony violation enumerated in subsection (c), knowingly . . . uses . . . a means of identification of another person

This criminal complaint is based on these facts:

See attached affidavit.

☒ Continued on the attached sheet.

Complainant's signature

Special Agent Zachary Bowen

Printed name and title

Sworn to before me and signed in my presence.

Date: February 26, 2016

Judge's signature

City and state: Houston, TX

Stephen Wm. Smith, U.S. Magistrate Judge

Printed name and title

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

UNITED STATES OF AMERICA

v.

BERNARDO MACIAS ESPARZA

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§

MAGISTRATE NO.

AFFIDAVIT IN SUPPORT OF A CRIMINAL COMPLAINT

I, Zachary Bowen, being duly sworn, hereby depose and say:

1. I am a Special Agent of the U.S. Department of State, Diplomatic Security Service, currently assigned to the Houston Field Office, in Houston, Texas. My duties include conducting criminal investigations involving the use of counterfeit or fraudulently obtained passports, visas and other identity documents.

2. The information in this affidavit is based on my investigation, training, knowledge, experience, and through information related to me through data, reports, previous investigations by the U.S. Department of State, and upon information provided to me by other government agencies. This affidavit is for the limited purpose of establishing probable cause. It is not a complete statement of all the facts related to this case. On 10/19/2015, an individual identifying himself as Carlos Macias (true name: Bernardo Macias Esparza) executed a DS-11 application (#791945837) for a U.S. passport at the Anson Jones U.S. Post Office in Houston, Texas. On the passport application, Macias listed his Social Security number as XX-XX-4662, a date of birth of XX/XX/1957, and his place of birth as Los Angeles, California. As proof of identity, Macias presented Texas Driver License #15326260, issued to a Carlos Macias on

08/03/2009 and expiring 11/21/2015. As proof of citizenship, Macias presented a State of California, County of Los Angeles, Certificate of Live Birth #48141, registered on 12/03/1957 and issued on 04/07/2008.

3. DS-11 #791945837 states in part that "I declare under penalty of perjury all of the following: 1) I am a citizen or non-citizen national of the United States... 2) the statements made on the application are true and correct; 3) I have not knowingly and willfully made false statements or included false documents in support of this application..."

4. Macias swore under penalty of perjury that the information contained on U.S. passport application DS-11 #791945837, including his claim to U.S. citizenship was true and correct to the passport acceptance clerk at the Anson Jones U.S. Post Office in Houston, Texas.

5. A query of U.S. Department of State and Department of Homeland Security Databases in the name of Carlos Macias (DOB: XX/XX/1957) and Social Security number XXX-XX-4662, revealed previous passport applications in the name Carlos Macias, a previous investigation by the U.S. Department of State, an arrest history for Bernardo Macias Esparza aka Carlos Macias, and an Alien # of A094948015. Macias was arrested and removed from the United States on three separate occasions.

6. On 9/27/2006, Macias was arrested at the San Ysidro, California Port of Entry (POE) while attempting to enter the United States with a fraudulently obtained U.S. passport in the assumed name of Carlos Macias. This passport was issued after Macias submitted U.S. passport application DS-11#038051038 on 02/22/2002 in Santa Ana, California. Macias admitted to U.S. Customs and Border Protection (CBP) officers that

he was a citizen and national of Mexico by birth in Aguascalientes, Mexico. Macias further admitted his true identity to be Bernardo Macias Esparza (DOB: XX/XX/1958), that at the age of 21 years, he had assumed the identity of his deceased brother Carlos Esparza Macias, who had died as an infant, and used the California birth certificate belonging to his deceased brother. Macias also admitted to knowing that it was illegal to assume the identity of another person and to declare himself to be a citizen of the United States when he is not. Macias was served with an I-860 (Notice and Order of Expedited Removal) and summarily removed from the United States on 09/28/2006.

7. On 12/14/2007, Macias was detained by U.S. Border Patrol (USBP) nine miles east and 140 yards north of the Tecate, California POE. Macias stated to USBP authorities that he was a national of Mexico and present in the United States illegally without any immigration documents. Macias's identity, criminal history, and immigration history were verified by fingerprint databases. Macias was removed from the United States on 12/18/2007.

8. On 12/23/2007, Macias was detained by USBP nine miles east and one mile north of the Tecate, California POE. Macias's identity, criminal history, and immigration history were verified by fingerprints. Macias also confirmed that the identity, criminal, and immigration record to be true and correct. Macias was removed from the United States on 12/23/2007.

9. The photographs submitted with passport applications DS-11 #038051038 in 2002, and DS-11 #791945837 on October 19, 2015 appear to be the same individual. DS-11 #038051038 and #791945837 are both signed, in similar handwriting, "Carlos

Macias.” The signature certifies under penalty of perjury “the photograph attached to this application is a genuine, current photograph of me. . .”


10. According to birth certificate #48141 presented by Macias along with DS-11 #791945837, Carlos Macias’s parents are Bernadino Macias (father), and Rosa Esperza (mother). An investigation by the Diplomatic Security Service, located the death certificate belonging to Carlos Macias Esparza, registered in Aguascalientes, Mexico. It states that Carlos Macias Esparza, son of Bernardino Macias and Ma. Rosa Esparza, died on 11/17/1958 in Pabellon, Aguascalientes, Mexico of bronchitis.

11. An investigation by the Diplomatic Security Service located Macias’s true birth certificate in the name Bernardo Macias Esparza born XX/XX/1958, the same date provided by Macias to CBP authorities, in Aguascalientes, Mexico to Bernardino Macias and Rosa Esparza.

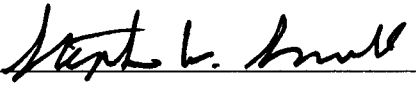
12. During the oral interview and sworn statement to CBP officers on 09/27/2006, Macias admitted he was born in Aguascalientes, Mexico on XX/XX/1958 as Bernardo Macias Esparza. Macias also admitted to having assumed the identity of his deceased brother, Carlos Esparza Macias at the age of 21 years, by using his deceased brother’s California birth certificate. Macias also admitted he knew it was against the law to assume the identity of another person. This conflicts with Macias’s signed DS-11 #791945837 on October 19, 2015 that falsely states, “I am a citizen or non-citizen national of the United States.” Furthermore, Macias’s statement from 09/27/2006 conflicts with his signed DS-11 #791945837 that falsely lists his place of birth as Los Angeles, California. Additionally, Macias knowingly and without lawful authority, acted willfully in submitting DS-11 #791945837 on October 19, 2015, using the assumed name

of his deceased brother, and his deceased brother's California birth certificate, to fraudulently obtain a U.S. passport.

13. Based on the above information and my experience, I respectfully submit there is probable cause that Bernardo Macias Esparza violated 18 U.S.C. §1542 in that he unlawfully, knowingly and willfully made false statements on his application for a U.S. passport; 18 U.S.C. § 911 in that he falsely and willfully represented himself to be a citizen of the United States; and 18 U.S.C. § 1028A in that he knowingly used, without lawful authority, a means of identification of another person, while knowing that the means of identification belonged to his deceased brother, during the above violations of 18 U.S.C. §§ 1542 and 911.

  
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Zachary Bowen, Special Agent  
United States Department of State  
Diplomatic Security Service

Sworn to and subscribed before me and I find probable cause on this 26<sup>th</sup> day of February, 2016.

  
\_\_\_\_\_  
United States Magistrate Judge  
Southern District of Texas